

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8231 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL
and
Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

BELL CERAMICS LTD

Versus

UNION OF INDIA

Appearance:

MR MIHIR H JOSHI for Petitioner
MR MUKESH R SHAH for Respondent No. 1, 2, 3, 4

CORAM : MR.JUSTICE B.C.PATEL
and
MR.JUSTICE D.H.WAGHELA

Date of decision: 14/02/2000

ORAL JUDGEMENT (Per: B.C.Patel, J.)

#. Rule. Mr. M.R. Shah, learned counsel appearing for respondent nos. 1 to 4 waives service of rule.

#. The petitioner has approached this Court under Article 226 of the Constitution of India as the respondents have already passed an order of attachment on 06.10.99.

#. On 8.4.99, the Adjudicating Authority considering the case of the petitioner passed an order against which appeal was preferred on 8.6.99 as also an application for stay. Mr. Joshi, learned counsel appearing for the petitioner states that yet the application for stay has not been disposed of and he has not received any communication. He submitted that when the appeal is preferred and the application for stay is pending for disposal, the respondents - authorities ought not to have issued an order of attachment of properties.

#. If the application is not disposed off within a reasonable period, then the property ought not to have been attached unless there are special circumstances. No such special circumstances are placed on record. Therefore, it goes without saying that the attachment stands cancelled. Under the circumstances, it is directed that the petitioner shall keep the goods with him of the value equivalent to the property under attachment. The order of attachment is produced on record at Annexure : B. On perusal of the same, it appears that ceramic glazed tiles worth Rs. 33,579/have been attached and therefore, under any circumstances, the petitioner shall keep the goods of this value in his possession.

#. In view of the aforesaid directions, the order of attachment is quashed and set aside. The application for stay, if not disposed of till this date shall be disposed off within a period of 4 weeks from today. It goes without saying that the setting aside of the attachment would be subject to the result of the stay application and/or the appeal that may be disposed off. Rule is made absolute with no order as to costs.

pirzada/-